

March 9, 2022

**BEFORE THE
U.S. DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Application of

WIZZ AIR HUNGARY, LTD.

**for a foreign air carrier permit pursuant
to 49 U.S.C. § 41301 (U.S.-EU Open Skies)**

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) **Docket DOT-OST-2022-0008**
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**ANSWER OF THE
ASSOCIATION OF FLIGHT ATTENDANTS-CWA, AFL-CIO**

Introduction

The Association of Flight Attendants-CWA, AFL-CIO (“AFA”) writes in response to the Application of Wizz Air, Hungary, LTD (“Wizz”) and urges the U.S. Department of Transportation (“Department”) to seek consultations with its European counterparts under Article 6, *bis* and Article 8 of the U.S.- E.U. Air Transport Agreement (“ATA”) due to significant concerns with this carrier’s past conduct. AFA further asks the Department to defer action on Wizz’s exemption and permit applications to allow consultations to occur.

AFA knows a good Application when it sees one. That is why AFA supported the recent application of Norse Atlantic Airways¹ because it was clear from Norse’s application and conduct that it respected labor rights and was committed to fulfilling its legal obligations. Norse’s

¹ *Application of Norse Atlantic Airways AS For An Exemption and Foreign Air Carrier Permit* , Docket DOT-OST-2021-0117, and Order 2022-1-15, at 3 (order to show cause noting AFA’s support).

Application notably demonstrated a commitment to adhering to all of its legal obligations under U.S. law and proactively engaged with labor unions to ensure fair pay and benefits for its employees and a smooth entry into the U.S. aviation system.

On the other hand, AFA has serious reservations over Wizz's Application. The history of Wizz is reportedly a history steeped in litigation and intransigence in at least three countries where the carrier refuses to play by the rules—rules in particular governing worker rights and safety. Consequently, AFA does support certain foreign-based applications, just not this one and that is why AFA asks the Department to seek consultations over these specific concerns.

Background

Comments from ALPA, APA, and SWAPA comprehensively address the background of Wizz Air's Application, and consequently, AFA will not go into significant detail over what at this point would be redundant. To briefly summarize, a few weeks ago, the Danish pension fund, AkademikerPension, divested the millions of dollars that it invested in Wizz stemming from allegations of "human and labour rights abuses" of Wizz's workers on at least six occasions since 2014.²

These revelations reportedly included an example of a Romanian court case where the court concluded that Wizz unlawfully terminated 19 pilots and flight attendants solely in retaliation for starting a Union. (ALPA Answer, Exhibit B). As noted in ALPA's Answer, in the case in Romania,

² Unfortunately, as far as we can tell the contents of the letter have not been publicly disclosed, but the Reuters news agency confirmed the veracity of the contents of the letter. <https://www.reuters.com/business/aerospace-defense/investors-challenge-budget-airline-wizz-air-over-labour-rights-2021-12-15/> ("The investor group, which raised their concerns in a letter seen by Reuters...")

rather than simply acknowledging fault and taking responsibility for its actions, Wizz appealed the decision where they lost again in December, 2020. (ALPA Answer, Exhibit B). Since that time, more than two years later, Wizz *still* refuses to reinstate these 19 crew members despite being ordered to do so by the Romanian judicial system. (ALPA Answer, Exhibit B).

Before divesting its financial interest in Wizz, the Dutch pension fund AkademikerPension had a final meeting with Wizz in early 2022 where it again reiterated its concerns of human and labor rights abuses in an attempt for the carrier to address these concerns. Nevertheless, following the meeting, Wizz publicly responded by simply saying that “sustainability” was a core value for the company.³ Given the context of the meeting, this statement seemingly confirms comments from the pension funds’ Chief Executive Jens Munch Holst after the meeting that “we are in no way reassured that they will initiate the changes we have requested with regard to human and labour rights issues.”⁴

Yet, the Romanian case was not the end of Wizz’s legal troubles. A Bulgarian court also concluded that Wizz unlawfully terminated a pilot who refused to fly beyond the legal maximum duty period. (ALPA Answer, Ex. D). When Wizz terminated this pilot, it simultaneously terminated 20% of its crews. (ALPA Answer, Ex. D). Again, rather than take responsibility for its actions and simply reinstate the pilot, Wizz dug in and appealed the Bulgarian court’s decision despite well settled law on the issue and lost again. (ALPA Answer, Ex. D)

³ <https://www.reuters.com/business/wizz-air-investor-akademikerpension-ditches-stake-over-labour-rights-2022-02-07/>

⁴ <https://www.reuters.com/business/wizz-air-investor-akademikerpension-ditches-stake-over-labour-rights-2022-02-07/>

Moreover, in 2021 Wizz abandoned efforts to fly to Norway after only eight months following “constant legal battles with Norwegian authorities, the government, and unions.”⁵ The history of Wizz operating in multiple countries reportedly demonstrates legal troubles stemming from a penchant for refusing to abide by labor and safety laws.

Argument

I. The Department should defer consideration of Wizz’s Application pending consultations with European authorities due to retaliatory safety allegations confirmed by the Bulgarian judicial system.

Unlike the Application of Norse Atlantic Airways, which demonstrated respect for workers and a commitment to fulfilling its legal obligations, Wizz’s Application and past conduct does neither. With Wizz, it is hard to tell what is more troubling: its unrelenting pursuit of meritless appeals rather than adherence to the law in Romania, or its retaliation for crew reporting safety concerns in Bulgaria, which if true, would certainly violate Article 8 of the ATA.

Wizz’s actions, taken together with leaked recorded comments of its head of flight operations criticizing employees who call out sick and directing base chief pilots to terminate pilots who call out sick or who refuse to work on their days off⁶, presents a deeply troubling picture of this carrier. Retaliation for ensuring safe air travel confirmed by a country’s judicial system must be taken very

⁵ Norway Today, “Jetting off with heavy baggage: Wizz Air’s troubled time within Norway”, June 21, 2021, at <https://norwaytoday.info/news/jetting-off-with-heavy-baggage-wizz-air-s-troubled-time-within-norway/>

⁶ Reuters, “Exclusive: Wizz Air replaces operations chief after probe into pilot redundancies,” June 30, 2021, at <https://www.reuters.com/article/us-health-coronavirus-wizz-air-hldgs-job-idUSKBN2BV2XA>; and City AM, “Wizz Air redundancies ‘dangerously influenced’ flight safety culture claims whistleblower,” Apr. 22, 2021, available at <https://www.cityam.com/wizz-air-redundancies-dangerouslyinfluenced-flight-safety-culture-claims-whistleblower>.

seriously and that is why it is so important for the Department to defer consideration of Wizz's Application pending consultations with the European aviation authorities.

On top of that, while Wizz argues that Unions oppose its Application simply because "Wizz Air has a non-unionized labor force"⁷ that argument completely misses the point. The issue is not that Wizz is non-Union; the issue is that Wizz has been found guilty of violating human and labor rights by multiple courts and violations of safety anti-retaliation laws, and its Reply offers no excuse for that—because there is none. Respect for a country's laws is not a mere suggestion, and allegations of repeated disregard for adhering to these laws should be of paramount concern for the Department.

II. The Impact of Wizz's Application is Even More Significant given Wizz's Supplemental Application for Charter Service.

The Department should also defer consideration of Wizz's Application pending consultations because its Supplement to its Application opens the door for more significant flying and could even lead to offer charter passenger service. While Wizz's Reply dated February 22, 2022 argued that the Application is solely for a one aircraft cargo service with no intent to offer schedule passenger service its Supplement filed on February 28th⁸ included a request for unlimited cargo flying from E.U. member states to the United States as well as "other charters pursuant to 14 C.F.R. Part 212." This supplemental filing raises the stakes even further since it is a short regulatory step from authorization for all-cargo charter to authority to carry passengers. Thus, Wizz's entry into the U.S. aviation market could potentially have a much more significant impact than merely one

⁷ Docket DOT-OST-2022-0008 at * 3

⁸ Docket DOT-OST-2022-0008-0009_attachment_1


aircraft cargo service and the Department should defer consideration of the Application pending consultations.

Conclusion

For the aforementioned reasons, AFA requests for the Department to defer consideration of Wizz's Application pending consultations with its European counterparts under the ATA.

March 9, 2022

Respectfully submitted,




John H. Morse III, Esq.
Associate General Counsel

CERTIFICATE OF SERVICE

I hereby certify that I have this 8th day of March, 2022, caused the foregoing document to be served by email on the following persons:

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